HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MR JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No:27342 OF 2007

Dated:20.12.2007

Between:

Reliance Industries Limited,
1st Floor, Deccan Chambers,
6-3-666, B, Somajiguda,
Hyderabad rep., by its Manager
B.V.D. Nagaraj Kumar.

..Petitioner

And

1. Commercial Tax Officer,
   Narayanaguda Circle, Hyderabad
   and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MR JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No:27342 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the order of the Joint Commissioner (CT) Legal, Hyderabad in CCT's Ref.No.LV (1)/915 & 916/2007, dated 30.11.2007 as illegal and arbitrary and to set aside the same and to interdict the 1st respondent from collecting tax in dispute in pursuance of the order of the assessment for the assessment years 2005-2006 during the pendency of the appeal before the Appellate Deputy Commissioner (CT), Secunderabad Division.

The main grievance of the petitioner is that against the assessment order for the assessment year 2005-06, the petitioner preferred an appeal before the appellate Deputy Commissioner (CT). The petitioner also filed stay application seeking stay of collection of the disputed tax. But, the said application was dismissed. Hence, the petitioner filed a revision before the Joint Commissioner (CT) (Legal), who rejected the same. Having aggrieved by the same, the present writ petition has been preferred.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the petitioner has already paid 50% of the disputed tax and the

appeal is pending before the 2nd respondent and at this juncture, if the relief as to the stay of the proceedings is not entertained and if the recovery of disputed tax is effected, the very purpose of filing the said appeal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of submission made by the learned Counsel that the petitioner has already paid 50% of the disputed tax and in view of the pendency of the appeal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted.

Accordingly, there shall be stay of recovery of disputed tax for the assessment year 2005-2006 till the disposal of the appeal pending before the 2nd respondent.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice C.V. Nagarjuna Reddy

Date: 20th December, 2007
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MR JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No:27342 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

20/12/2007